

Honorable Marsha J. Pechman

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON AT SEATTLE

DIANNE L. KELLEY and KENNETH
HANSEN,

Plaintiffs,

v.

MICROSOFT CORPORATION, a Washington
Corporation,

Defendant.

NO. C07-0475 MJP

DECLARATION OF IAN BIRK IN
SUPPORT OF PLAINTIFFS'
MOTION TO COMPEL
DISCOVERY AND TO DEEM
CERTAIN REQUESTS FOR
ADMISSION "ADMITTED"

CLASS ACTION

I, Ian S. Birk, declare as follows:

1. Identity and Competency. I am an attorney with the law firm of Keller Rohrback LLP. Together with Gordon Tilden Thomas & Cordell, LLP, we represent the plaintiffs.

2. Authentication of Documents. Attached as exhibits are true and correct copies of the following documents:

<u>Exhibit Name</u>	<u>Tab</u>
Spreadsheet prepared by counsel summarizing RFAs to which Microsoft has asserted "vague and ambiguous" objections to commonly-used words and terms	A
Microsoft's objections and responses to Plaintiffs' First Set of Requests for Admissions, dated August 2, 2007.	B

DECLARATION OF IAN BIRK - 1
No. C07-0475 MJP

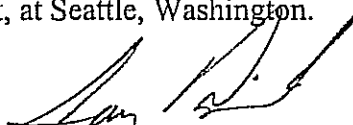
GORDON TILDEN THOMAS & CORDELL LLP
1001 Fourth Avenue, Suite 4000
Seattle, WA 98154
Phone (206) 467-6477
Fax (206) 467-6292

<u>Exhibit Name</u>	<u>Tab</u>
Plaintiffs' First Set of Interrogatories and Requests for Production of Documents Propounded to Defendant and Defendant's Objections and Responses Thereto, dated August 2, 2007.	C
Plaintiffs' Third Set of Interrogatories and Requests for Production of Documents Propounded to Defendant and Defendant's Objections and Responses Thereto, dated August 13, 2007.	D
Letter from me to counsel for defendant, dated August 24, 2007.	E
Letter from Steven M. Rummage (counsel for defendant) to myself and Jeffrey M. Thomas, dated August 29, 2007.	F
Pages 1, 5, and 11 of Microsoft's First Set of Requests for Production of Documents to Plaintiff Dianne Kelley, and Answers, Responses and Rejections Thereto, dated August 6, 2007.	G
Pages 1 and 10-11 of Microsoft's First Set of Interrogatories to Plaintiff Kenneth Hansen with Answers, Responses and Objections thereto, dated August 7, 2007.	H

3. Rule 37 Certification. Prior to filing Plaintiffs' First Motion to Compel, we conferred in good faith with counsel for defendant Microsoft Corporation to attempt to resolve these discovery disputes in accordance with Rules 37(a) and CR 37(a).

I declare under penalty of perjury that the foregoing is true and correct.

Executed this 30th day of August, at Seattle, Washington.



Ian S. Birk

CERTIFICATE OF SERVICE

I hereby certify that on August 30, 2007, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to the following.

Counsel for Defendant Microsoft Corporation

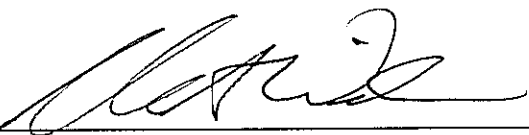
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